

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON

VICKI LYNN LOVERN,

Plaintiff,

v.

CIVIL ACTION NO. 2:14-CV-15423

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

AMENDED PROPOSED FINDINGS AND RECOMMENDATION

Currently pending before the court is Defendant's Motion for Remand, filed October 31, 2014 (ECF No. 15). In the Motion, Defendant seeks an order remanding this action pursuant to the fourth sentence of 42 U.S.C. § 405(g). Defendant asserts that remand is necessary because Plaintiff's case would benefit from further evaluation of Plaintiff's claim of disability. Upon remand, the Appeals Council will vacate the December 5, 2013, decision of the Administrative Law Judge (ALJ). Thereafter, the Commissioner will refer Plaintiff's case to an ALJ for further development of the record, a new hearing and a new decision. Defendant further requests that the court enter final judgment by separate order that ends the civil action in accordance with Rule 58 of the Federal Rules of Civil Procedure. Plaintiff concurs with this motion.

For the reasons set forth above, it is hereby respectfully RECOMMENDED that the presiding District Judge GRANT the Defendant's Motion for Remand (ECF No. 15), REMAND this case for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g), ENTER final judgment and DISMISS this matter from the court's docket.

The parties are notified that this Proposed Findings and Recommendation is hereby

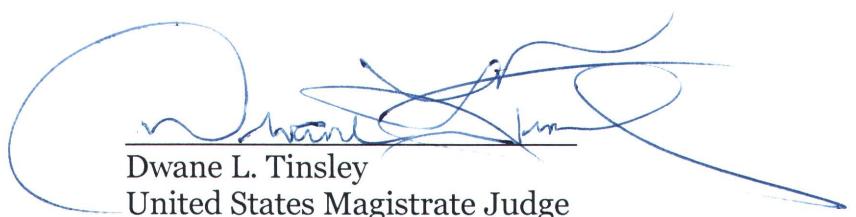
FILED, and a copy will be submitted to the Honorable Thomas E. Johnston. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Rules 6(e) and 72(b), Federal Rules of Civil Procedure, the parties shall have fourteen days (filing of objections) and then three days (mailing/service) from the date of filing this Proposed Findings and Recommendation within which to file with the Clerk of this court, specific written objections, identifying the portions of the Proposed Findings and Recommendation to which objection is made, and the basis of such objection. Extension of this time period may be granted for good cause shown.

Failure to file written objections as set forth above shall constitute a waiver of *de novo* review by the District Court and a waiver of appellate review by the Circuit Court of Appeals. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Wright v. Collins*, 766 F.2d 841, 846 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Copies of such objections shall be served on opposing parties, Judge Johnston, and this Magistrate Judge.

The Clerk is directed to file this Proposed Findings and Recommendation and to transmit a copy of the same to counsel of record.

April 22, 2015

Date



Dwane L. Tinsley
United States Magistrate Judge